

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**FRANK STOVER,
individually and on behalf of all others
similarly situated**

Plaintiff,

v.

**CIVIL ACTION NO. 2:20-cv-00096
Honorable John T. Copenhaver, Jr.**

**BLACKHAWK MINING, LLC;
and PANTHER CREEK MINING, LLC,**

Defendants.

**DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE,
COMPEL ARBITRATION**

Defendants Blackhawk Mining, LLC (“Blackhawk Mining”) and Panther Creek Mining, LLC (“Panther Creek Mining”) (collectively, “Defendants”), by counsel, move this Court to dismiss Plaintiff Frank Stover’s (“Plaintiff’s”) claims against them pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure or, in the alternative, compel arbitration by the parties pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* Plaintiff’s claims against Defendants are subject to a Mutual Arbitration Agreement signed by Plaintiff during his employment with Panther Creek Mining. Importantly, the Mutual Arbitration Agreement at issue here is identical to the arbitration agreement upheld by this Court in *Chambers v. Hampden Coal, LLC*, 2018 U.S. Dist. LEXIS 34637 (S.D. W.Va. Mar. 1, 2018). In *Chambers*, this Court dismissed the plaintiff-employee’s complaint to arbitration pursuant to the valid and enforceable arbitration agreement executed by the plaintiff-employee during his employment. *Id.* Here, like in *Chambers*, the Court lacks subject matter jurisdiction over Plaintiff’s claims based on the valid and enforceable Mutual Arbitration Agreement executed by Plaintiff during his

employment with Panther Creek Mining.¹ In support of this Motion, Defendants rely upon the points and authorities set forth in the *Memorandum of Law in Support of Defendant's Motion to Dismiss or, in the Alternative, Compel Arbitration* filed with this Motion.

There being no just reason for delay, Defendants respectfully request that the Court enter an Order granting their Motion.

**BLACKHAWK MINING, LLC and
PANTHER CREEK MINING, LLC**

By Counsel

/s/ Kelsey Haught Parsons

Ashley C. Pack (WV State Bar # 10477)
Kelsey Haught Parsons (WV State Bar # 13205)
DINSMORE & SHOHL LLP
P.O. Box 11887
Charleston, WV 25339-1887
Telephone (304) 357-0900
Facsimile (304) 357-0919
ashley.pack@dinsmore.com
kelsey.haughtparsons@dinsmore.com

¹ Defendants sought an agreed order of dismissal from Plaintiff's counsel, but did not receive a response.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

**FRANK STOVER,
individually and on behalf of all others
similarly situated**

Plaintiff,

v.

**CIVIL ACTION NO. 2:20-cv-00096
Honorable John T. Copenhaver, Jr.**

**BLACKHAWK MINING, LLC;
and PANTHER CREEK MINING, LLC,**

Defendants.

CERTIFICATE OF SERVICE

I, Kelsey Haught Parsons, do hereby certify that on the 4th day of March, 2020, the foregoing *Defendants' Motion to Dismiss or, in the Alternative, Compel Arbitration* was filed with the Court and served upon the following counsel of record using the Court's CM/ECF system:

Sean W. Cook, Esq.
Warner Law Offices, PLLC
227 Capitol Street
Charleston, WV 25301

/s/ Kelsey Haught Parsons
Kelsey Haught Parsons (WV State Bar # 13205)